

PUBLIC HEALTH DEPARTMENT[641]

Adopted and Filed

Pursuant to the authority of Iowa Code section 8A.504, the Department of Public Health hereby adopts Chapter 179, "Collection of Delinquent Debts," Iowa Administrative Code.

The Department currently does not have rules established for the collection of delinquent debts owed to the Department. These rules outline the Department's procedures for collection of debt owed to the Department and will allow the Department to participate in the Department of Administrative Services' income offset program. The rules also outline the appeal process for a person or entity that receives notification of pending collection.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2457C** on March 16, 2016. No public comment was received. These rules are identical to those published under Notice of Intended Action.

The Department adopted these rules on May 11, 2016.

After analysis and review of this rule making, no impact on jobs has been found.

These rules are intended to implement Iowa Code section 8A.504.

These rules will become effective July 13, 2016.

The following amendment is adopted.

Adopt the following new 641—Chapter 179:

CHAPTER 179

COLLECTION OF DELINQUENT DEBTS

641—179.1(8A) Authorization. The department may participate in the department of administrative services' income offset program.

641—179.2(8A) Definitions. For purposes of this rule, the following definitions apply:

"Debtor" means any person who owes a debt to the department.

"Department" means the Iowa department of public health.

"Income offset program" means the program established in Iowa Code section 8A.504 through which the department of administrative services coordinates with state agencies to satisfy liabilities owed to those state agencies.

"Liability" or *"debt"* means a "qualifying debt" as defined in Iowa Code section 8A.504(1) or any liquidated sum due, owing, and payable by a debtor to the department. Such liquidated sum may be accrued through contract, subrogation, tort, operation of law, or any legal theory regardless of whether there is an outstanding judgment for that sum.

"Liquidated" means that the amount of the claim or debt is definite, determined, and fixed by agreement of the parties, by operation of law, or through court or administrative proceedings.

"Notification of offset" means receipt of actual notice by the department from the department of administrative services that the debtor is entitled to a payment that qualifies for offset.

"Offset" means to set off liabilities owed by a person to the department against claims owed to persons by public agencies.

"Person" means an individual, corporation, business trust, estate, trust, partnership or association, or any other legal entity, but does not include a state agency.

"Preoffset notice" means the notice required by rule 641—179.4(8A).

641—179.3(8A) Liability file. The department may provide the department of administrative services a liability file.

179.3(1) Contents. With respect to each individual debtor, the liability file shall contain the following:

a. Information relevant to the identification of the debtor, as required by the department of administrative services and including the debtor's name and social security number or federal identification number,

b. The amount of liability, and

c. A written statement declaring the debt to have occurred.

179.3(2) Certification. The department shall certify the liability file at least semiannually, as required by the department of administrative services.

179.3(3) Updates. The department shall update the liability file:

a. When necessary to reflect new debtors, and

b. When the status of a debt changes due to payment of the debt, invalidation of the liability, alternate payment arrangements with the debtor, bankruptcy, or other factors.

179.3(4) Due diligence.

a. Before submitting debtor information to the outstanding liability file, the department shall make a good-faith attempt to collect from the debtor. Such attempt shall include at least all of the following:

(1) A telephone call requesting payment.

(2) A letter to the debtor's last discernible address requesting payment within 15 days.

b. The department shall document due diligence and retain such documentation.

641—179.4(8A) Notification of offset. Within 10 calendar days of receiving notification from the department of administrative services that the debtor is entitled to a payment, the department shall:

179.4(1) Send a preoffset notice to the debtor. The preoffset notice shall inform the debtor of the amount the department intends to claim and shall include all of the following information:

a. The department's right to the payment in question.

b. The department's right to recover the payment through the offset procedure.

c. The basis of the department's case in regard to the debt.

d. The right of the debtor to request, in accordance with rule 641—179.5(8A) and within 15 days of the mailing of the preoffset notice, a split of the payment between parties when the payment in question is jointly owned or otherwise owned by two or more persons.

e. The debtor's right to appeal the offset, in accordance with rule 641—179.6(8A) and within 15 days of the mailing of the preoffset notice, and the procedure to follow in that appeal.

f. The department's contact information, including a telephone number, for the debtor to contact in case of questions.

179.4(2) Notify the department of administrative services that the preoffset notice has been sent to the debtor and supply a copy of the preoffset notice to the department of administrative services.

641—179.5(8A) Request to divide a jointly or commonly owned right to payment.

179.5(1) A debtor who receives a preoffset notice may request release of a joint or common owner's share if the request is received by the department within 15 days of the date the preoffset notice is mailed.

179.5(2) In conjunction with such a request, the debtor shall provide to the department the full name and social security number of any joint or common owner.

179.5(3) Upon receipt of such a request, the department shall notify the department of administrative services of the request.

641—179.6(8A) Appeal process.

179.6(1) A debtor who receives a preoffset notice may request an appeal of the existence or amount of the underlying debt if such request is made within 15 days of the date the preoffset notice is mailed.

179.6(2) Request for appeal must be submitted in writing to the Iowa Department of Public Health, Bureau of Finance, Attn: Offset Appeals, 321 E. 12th Street, Des Moines, Iowa 50319-0075.

179.6(3) If a request for appeal is timely made, the department shall issue a notice of hearing to the debtor and provide a copy of the notice of hearing to the assistant attorney general for the department.

179.6(4) The appeal shall be conducted as a contested case proceeding pursuant to 641—Chapter 173.

179.6(5) If a request for appeal is timely made, the department shall notify the department of administrative services within 45 days of the notification of offset. The department shall hold a payment in abeyance until the final disposition of the contested liability or offset.

641—179.7(8A) Notice of offset. Once any offset has been completed, the department shall notify the debtor of the action taken, and of what balance, if any, still remains owing to the department.

These rules are intended to implement Iowa Code section 8A.504.

[Filed 5/17/16, effective 7/13/16]

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 6/8/16.